

S T O L L | K E E N O N | & | P A R K | L L P

2650 AEGON CENTER | 400 WEST MARKET STREET | LOUISVILLE, KENTUCKY 40202-3377
(502) 568-9100 PHONE | (502) 568-5700 FAX | WWW.SKP.COM

DOUGLAS F. BRENT
502-568-5734
brent@skp.com

July 25, 2005

RECEIVED

JUL 26 2005

PUBLIC SERVICE
COMMISSION

Elizabeth O'Donnell
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40601

RE: Case No. 2005-00186 – Dialog's Response to Information Requests

Dear Ms. O'Donnell:

Enclosed please find responses of Dialog Telecommunications, Inc. ("Dialog") to the Commission's June 22, 2005 Order in the referenced proceeding. That Order required telecommunications utilities with "unlimited calling plans" to respond to information requests appended to the Order. In addition, the Commission has ordered utilities with "unlimited calling plans" to respond to data requests from the Attorney General's Office of Rate Intervention. Dialog's responses to the Office of Rate Intervention are also enclosed.

Five copies of Dialog's response are enclosed. In addition, we are serving one copy to Assistant Attorney General Dennis G. Howard, II at the Office of Rate Intervention.

Please indicate receipt of this filing by your office by placing your file stamp on the extra copy and returning to me via the enclosed, self-addressed stamped envelope.

Sincerely yours,



Douglas F. Brent

Counsel for Dialog Telecommunications

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUL 26 2005

In the Matter of:

PUBLIC SERVICE
COMMISSION

AN INQUIRY INTO LIMITATIONS)	
Of USE FOR TARIFFED SERVICES)	ADMINISTRATIVE
DESIGNATED OR OTHERWISE)	CASE NO. 2005-00186
REFERRED TO AS UNLIMITED)	

**DIALOG TELECOMMUNICATIONS' RESPONSES TO THE ATTORNEY
GENERAL'S REQUEST FOR INFORMATION**

Pursuant to the Commission's July 1, 2005 Order granting intervention to the Office of Rate Intervention, Dialog Telecommunications, Inc. ("Dialog") provides the following responses to the Attorney General's data requests.

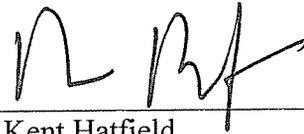
REQUEST NO. 1: Please provide copies of all advertisements, regardless of medium, solicitations, and explanations provided to the public to introduce, explain and/or market any plan labeled or otherwise described as "unlimited." In the event that the medium used is audio or video in nature, a transcript of same is deemed sufficient.

RESPONSE: Direct mailers and newspaper advertising used in Kentucky are included as Attachment 1.

REQUEST NO. 2: Please provide a copy of any and all contracts signed by customers who have participated or are participating in a plan labeled or otherwise described as "unlimited." This request seeks only a copy of the blank contract(s), not the executed contract for every customer.

RESPONSE: Dialog's standard terms and conditions are included in Attachment 2 to Dialog's response to the Commission's Data Requests. Customers for the referenced services do not sign a contract. Service orders are confirmed in compliance with FCC and state rules governing presubscription, and services are provided pursuant to tariff and Dialog's agreement, which governs interstate services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Brent', written over a horizontal line.

C. Kent Hatfield
Douglas F. Brent
STOLL KEENON & PARK, LLP
2650 AEGON Center
400 West Market Street
Louisville, Kentucky 40202
(502) 568-9100

COUNSEL FOR DIALOG
TELECOMMUNICATIONS

CERTIFICATE OF SERVICE

A copy of the foregoing was served this 25th day of July, 2005 first class, United States mail, postage prepaid, upon Dennis G. Howard, II, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, KY 40601-8204.

A handwritten signature in black ink, appearing to read 'D. Brent', written over a horizontal line.

Douglas F. Brent

OUR BEST CUSTOMERS DON'T PAY THEIR PHONE BILLS

REFER YOUR FRIENDS AND GET FREE PHONE SERVICE

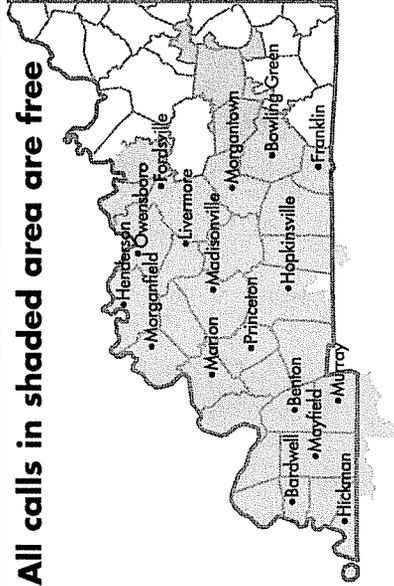
TWO GREAT PLANS: Simple Solution...\$35

Unlimited regional long distance
Unlimited FREE calling features

Unlimited Connection...\$60

Unlimited coast-to-coast calling
Unlimited FREE calling features

All calls in shaded area are free



FREE Calling Features

- Caller ID
- Call waiting
- Call forwarding
- Three-way calling
- Call return *69
- And more

A new way of thinking:

- No hidden fees, taxes or charges.
- The rate we quote is the rate you pay. No surprises.
- No cost to switch & no interruption in service.
- Your satisfaction is guaranteed.
- A five minute call could save you 50%.



New! Dialog Unlimited Internet. Only \$14 per month. No taxes. No fees. No hassles.

1 - 8 8 8 - S A V E - N O W

(1-888-728-3669)

www.calldialog.com

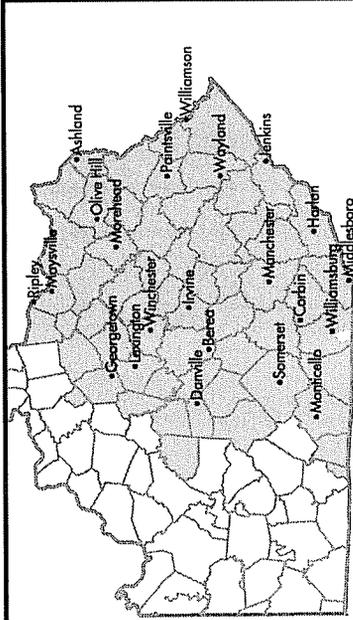
SAVE A SHIRTLOAD ON YOUR PHONE BILL.

**FREE long distance and
FREE calling features from Dialog.**

TWO GREAT PLANS: Simple Solution...\$35 Unlimited Connection...\$60

Unlimited regional long distance
Unlimited FREE calling features

Unlimited coast-to-coast calling
Unlimited FREE calling features



All calls in shaded area are free.

FREE Calling Features

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- Call waiting
- Call forwarding
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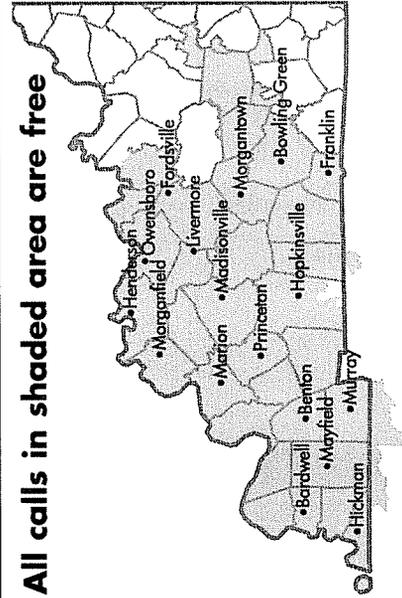
www.calldialog.com

IT'S AN ALL-YOU-CAN-EAT PHONE BUFFET

EVERYTHING YOU WANT. ONE LOW PRICE.

TWO GREAT PLANS: Simple Solution...\$35

Unlimited regional long distance
Unlimited FREE calling features



All calls in shaded area are free

FREE Calling Features

- Caller ID
- Call waiting
- Call forwarding
- Three-way calling
- Call return *69
- And more

Unlimited Connection...\$60

Unlimited coast-to-coast calling
Unlimited FREE calling features

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New! Dialog Unlimited Internet. Only \$14 per month. No taxes. No fees. No hassles.

1 - 8 8 8 - S A V E - N O W

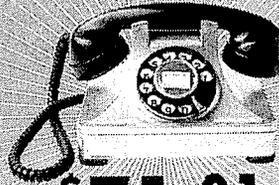
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www.calldialog.com

PAY LESS. GET MORE.



\$55



\$71.01

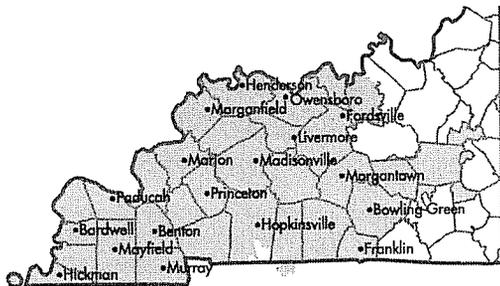
DIALOG

• Simple Solution	\$55
• Unlimited regional calling	INCLUDED
• Additional fees	INCLUDED
• Taxes	INCLUDED
<hr/>	
Monthly Total	\$55

Your Phone Company

• Complete Choice	\$50.50
• Overage charges	\$ 4.40
• Additional fees	\$ 7.50
• Taxes	\$ 8.61
<hr/>	
Monthly Total	\$71.01

All calls in shaded area are free



**Or get unlimited coast-to-coast calling
for just \$75 per month**

- No hidden fees, taxes or charges.
- The rate we quote is the rate you pay. No surprises.
- No cost to switch & no interruption in service.
- Your satisfaction is guaranteed.
- A five minute call could save you 50%.
- Free calling features (caller ID, call waiting, etc.)

DIALOG
TELECOMMUNICATIONS
A New Way of Thinking

New! Dialog Unlimited Internet. Only \$14 per month. No taxes. No fees. No hassles.

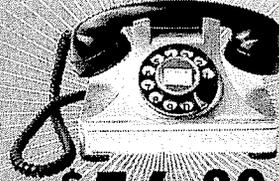
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www.calldialog.com

PAY LESS. GET MORE.



\$35



\$56.88

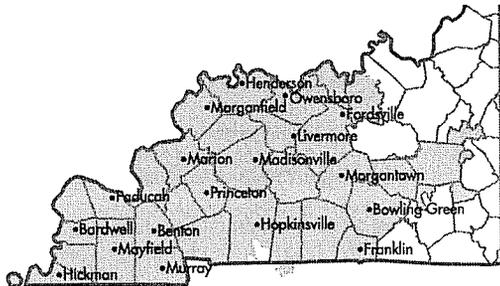
DIALOG

• Simple Solution	\$35
• Unlimited regional calling	INCLUDED
• Caller I.D.	INCLUDED
• Call waiting	INCLUDED
• Call return	INCLUDED
• Three-way calling	INCLUDED
• Additional fees	INCLUDED
• Taxes	INCLUDED
<hr/>	
Monthly Total	\$35

Your Phone Company

• Local line	\$13.93
• Local long distance calls	\$ 9.12
• Caller I.D.	\$ 7.50
• Call waiting	\$ 3.45
• Call return	\$ 4.70
• Three-way calling	\$ 3.70
• Additional fees	\$ 7.50
• Taxes	\$ 6.98
<hr/>	
Monthly Total	\$56.88

All calls in shaded area are free



**Or get unlimited coast-to-coast calling
for just \$60 per month**

- No hidden fees, taxes or charges.
- The rate we quote is the rate you pay. No surprises.
- No cost to switch & no interruption in service.
- Your satisfaction is guaranteed.
- A five minute call could save you 50%.



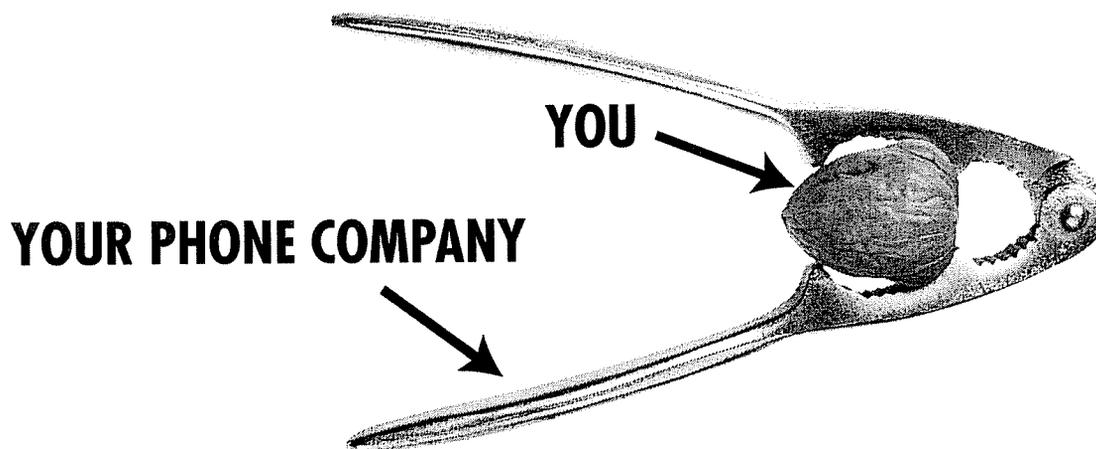
New! Dialog Unlimited Internet. Only \$14 per month. No taxes. No fees. No hassles.

1 - 8 8 8 - 4 4 9 - 3 5 0 0

www.calldialog.com

**STOP GETTING SQUEEZED.
TRY DIALOG.**

The nicer, cheaper, better phone company.

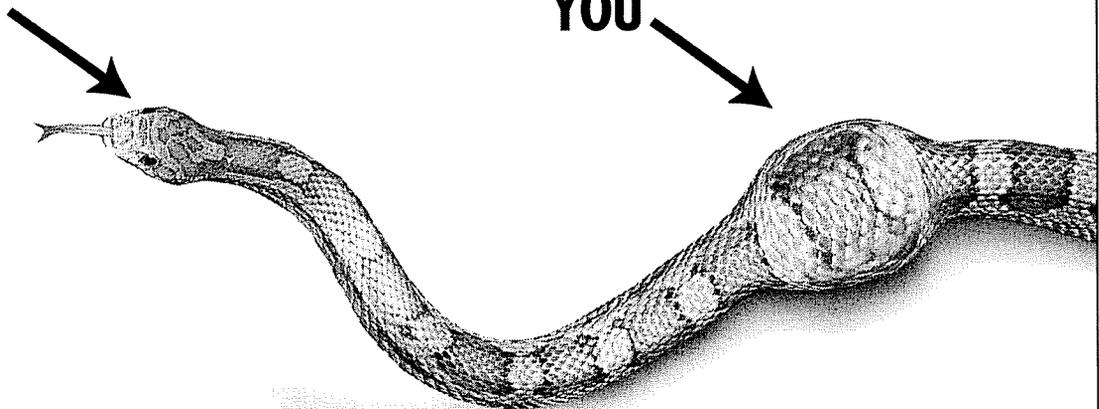


**STOP GETTING EATEN ALIVE.
TRY DIALOG.**

The nicer, cheaper, better phone company.

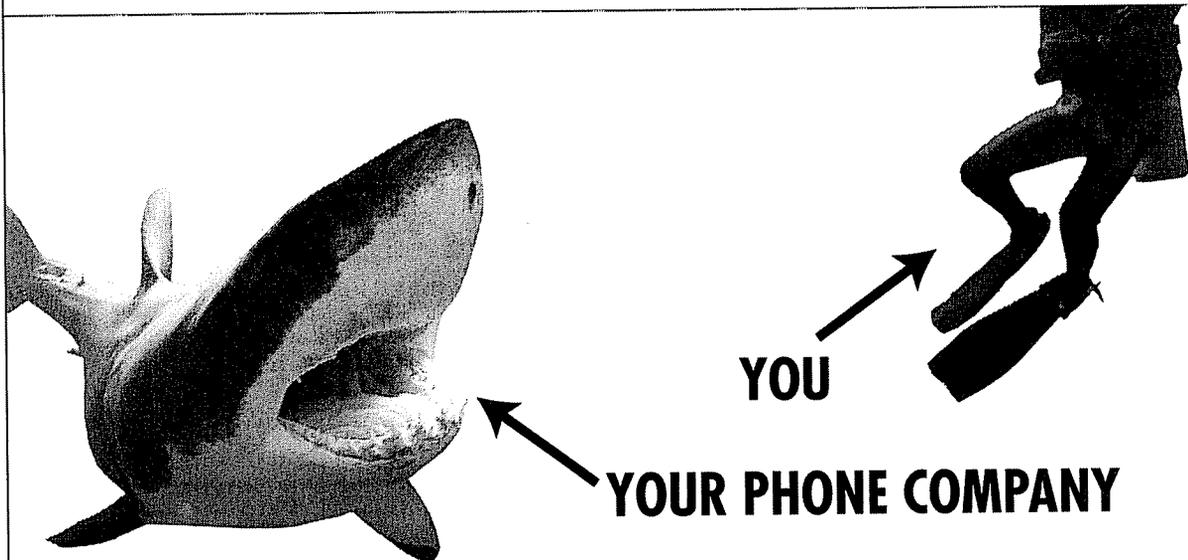
YOUR PHONE COMPANY

YOU



STOP PAYING AN ARM AND A LEG. TRY DIALOG.

The nicer, cheaper, better phone company.



We've taken the *BS* out of phone service

ELL OUTH

DIALOG

BELLSOUTH



\$35



\$64.95

• Simple Solution	\$35	• Local line	\$16.65
• Unlimited regional calling	INCLUDED	• Local long distance calls	\$ 9.12
• Caller I.D.	INCLUDED	• Caller I.D.	\$ 8.00
• Call waiting	INCLUDED	• Call waiting	\$ 7.00
• Call return	INCLUDED	• Call return	\$ 6.00
• Three-way calling	INCLUDED	• Three-way calling	\$ 3.70
• Additional fees	INCLUDED	• Additional fees	\$ 7.50
• Taxes	INCLUDED	• Taxes	\$ 6.98
Monthly Total	\$35	Monthly Total	\$64.95

THE CHOICE IS OBVIOUS.

All calls in shaded area are free



**Or get unlimited coast-to-coast calling
for just \$60 per month**

- No hidden fees, taxes or charges.
- The rate we quote is the rate you pay. No surprises.
- No cost to switch & no interruption in service.
- Your satisfaction is guaranteed.
- A five minute call could save you 50%.

DIALOG
TELECOMMUNICATIONS
A New Way of Thinking

New! Dialog Unlimited Internet. Only \$14 per month. No taxes. No fees. No hassles.

1 - 8 0 0 - 3 1 1 - 8 0 8 3

www.calldialog.com

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUL 26 2005

PUBLIC SERVICE
COMMISSION

In the Matter of:

AN INQUIRY INTO LIMITATIONS)	
Of USE FOR TARIFFED SERVICES)	ADMINISTRATIVE
DESIGNATED OR OTHERWISE)	CASE NO. 2005-00186
REFERRED TO AS UNLIMITED)	

**DIALOG TELECOMMUNICATIONS' RESPONSES TO THE COMMISSION'S
REQUEST FOR INFORMATION DATED JUNE 22, 2005**

Pursuant to the Commission's June 22, 2005 Order establishing this proceeding, Dialog Telecommunications, Inc. ("Dialog") provides the following responses to the questions attached as an Appendix to the Order.

REQUEST NO. 1: Does the utility offer a plan that is described, named, or marketed as "unlimited"? If yes, identify and describe the plan and provide copies of the tariff sheets on which the plans can be found.

RESPONSE: Yes. It is described on page 61 of Dialog's tariff PSC No. 1 as follows:

7.2.2 Unlimited Plan a. General The Unlimited Plan combines monthly local service and monthly long distance service which is charged, on a bundled basis, to the customer on flat-rated, per-line basis. The Unlimited Plan is subject to a one term commitment and to such additional terms and conditions as may be specified in the contract between the Company and the customer. Customers must receive both local, local toll, and long distance from the Company on all lines provisioned at the location where the Company is providing service to the Customer. No minimum monthly fees or minimums apply and no surcharges or other fees excepting taxes and applicable regulatory fees or surcharges charged in consequence of local, state or federal regulations. An additional, unmetered Backup Line is also available at the customer's election. There is a limit of one Backup Line per account.

The currently approved tariff sheet is Attachment 1 this response.

REQUEST NO. 2: If the utility has an “unlimited” plan, are there use restrictions or other limitations on the plan? If yes, describe these restrictions and reference the utility’s tariff.

RESPONSE: The restrictions are as follows:

Restrictions and Limitations. You agree that you will not use the Services (a) for resale; (b) for telemarketing, outbound call center, or similar enterprises; (c) for connection to information or entertainment services; (d) for data transmission; (e) for aggregation of calls originating on facilities provided by any other carrier; or (f) for any unlawful or unintended purpose. The Unlimited Connection Plan is exclusively available to customers whose telephone lines have been solely provisioned by Dialog as Unlimited Connection Plan lines, except one line may be on the Simple Solution plan. The Services are subject to certain limitations, including the following: (a) no collect calls; (b) no international calls; (c) no accepting charges for third party calls and (d) limited access to operator assisted calls.

As referenced in Dialog’s response to PSC Request No. 1, Section 7.2.2 of Dialog’s KY Tariff No. 1 states the Unlimited Plan is subject to a one term commitment and to such additional terms and conditions as may be specified in the contract between the Company and the customer. Dialog’s Unlimited Plan includes interLATA service, including detariffed interstate calling. Therefore, as required by the applicable FCC regulation, 47 CFR § 42.10, the restrictions on Dialog’s unlimited plan are available on its website at http://www.calldialog.info/policies_terms/product_terms.htm

REQUEST NO. 3: How and when are customers or potential customers notified of the limitations on the unlimited plan? Describe the notification.

RESPONSE: Each potential customer is provided details of the plan during their sales call. Potential customers who choose Dialog receive written notice of the limitations with the welcome letter that is mailed within three days of service activation.

During the sales call the Dialog representative, in an effort to help match the customer with the best plan will ask how much long distance calling the customer typically uses. If that usage is high enough that the customer will be best served by the unlimited plan, then it is presented as a plan that provides unlimited nationwide calling within the continental United States, but that cannot be used for international calling, for making long distance calls to connect to the Internet, or for connecting to information or entertainment services like chat services. The representatives have been carefully trained to present these restrictions properly, and their calls are regularly monitored to ensure that the customer is fully informed before making a decision. Within 3 days of service activation a welcome letter is sent to each customer. That letter details the products the customer has selected, the rates for those products, and the Terms and Conditions of our agreement, including the restrictions that apply to the unlimited plan. See Attachment 2 for a sample welcome letter including the terms and conditions sheet provided to the customer.

REQUEST NO. 4: If third parties (agents, telemarketers, consignees, etc.) market, advertise, or otherwise offer end-users the utility's unlimited plan, explain how those "marketers" are required to verify compliance with the notice requirements.

RESPONSE: Dialog accepts customer orders through phone conversations directly with the customer (approximately 85% of sales) and from sales agents located in the markets (approximately 15% of sales). The agents are trained to present the unlimited plan in exactly the same way that Dialog sales representatives present it. Agents are required to present the Terms and Conditions to each customer at the time of

the sale. As with orders taken internally, a welcome letter is sent to the customer within three days of service provisioning.

REQUEST NO. 5: Assuming a customer has subscribed to an “unlimited” plan that has use limitations, is the customer notified when the limitations are exceeded? If yes, how is the customer notified?

RESPONSE: Dialog's unlimited plan does not have voice calling volume limitations as contemplated by this question, but the company does monitor usage to ensure that use for restricted types of calling is reasonable. If Dialog determines that a customer's use is in violation of the terms and conditions, the customer is contacted by phone to remind them of the terms of the agreement. In no case is a customer's local service interrupted, and in no case is the customer charged any "overage" or "excessive use" fee or penalty. If at any time the customer determines on their own that they must make calls of a restricted type, they are able to select another long distance service provider without any penalty whatsoever.

REQUEST NO. 6: How and when are customers notified that changes have been made to the plan?

RESPONSE: Dialog has made no changes in the terms and conditions of its Kentucky plan.

REQUEST NO. 7: Are customers able to check the number of minutes they have used in order to determine whether they will exceed the plan's limitations?

RESPONSE: There is no limit to the number of calls or the number of minutes a customer may use on the Dialog unlimited calling plan, as long as the calling is consistent with the terms of the calling plan, so there is no need for the described functionality.

REQUEST NO. 8: Explain why the utility markets, names, or describes a plan as “unlimited” when limits on the plan exist.

RESPONSE: Dialog's unlimited calling plan is correctly named. Dialog and many other carriers market certain residential services as “unlimited.” In Dialog’s case, there are no volume limitations, as long as the calling is consistent with the terms of the calling plan. This is consistent with the types of restrictions on local service the Commission has approved for decades. For example, incumbent local carriers have traditionally provided flat rated residential local service (“1FR”). This service typically provides “unlimited” calling within a local calling area, as long as the calling is consistent with residential usage. A consumer is free to make as many personal calls as they care to. On the other hand, business customers, even those with low calling volumes, must order a different, more expensive class of service (“1FB”). Thus, when a plan offers unlimited calling, restrictions on the *types of calls* a subscriber may make are reasonable.

The popularity of contemporary unlimited calling plans suggests the overwhelming majority of customers understand, accept, and benefit from the reasonable restrictions on *types of use*. Customers apply common sense in evaluating the use of the word unlimited to describe a service. No customer could reasonably expect that Dialog’s unlimited plan would allow the customer to use the service for resale or to facilitate a commercial broadcast fax service.

Dialog’s use is akin to rental car agency advertising “unlimited miles.” Most rental agreements include unlimited miles. A renter may use an unlimited number of miles, but may not use those miles for off road travel, street racing, or for driving to

another country. Nor may the renter “resell” the miles by using the car to provide taxi service. Despite these restrictions, the use of the word unlimited is meaningful and not misleading to the renter. Similarly, a restaurant may offer an unlimited buffet, but the fact that a consumer cannot take food to go hardly makes the “unlimited” claim misleading.

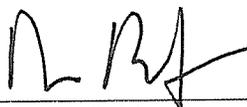
REQUEST NO. 9: Explain how the utility ensures that the unlimited plan is offered and the rates, terms, and conditions of service are applied without discrimination as required by KRS 278.170(1).

RESPONSE: Dialog offers the unlimited plan to any customer or prospective customer in its service area.

REQUEST NO. 10: Provide summary records of all complaints received by the utility regarding any unlimited plans offered in Kentucky since January 1, 2001. Include the date that the complaint was opened, customer class, description of complaint, description of complaint resolution, and date the complaint was closed.

RESPONSE: Dialog has responded to one formal complaint filed at the Commission. That complaint related primarily to interstate calling. The complaint was docketed as Case No. 2005-0006 and ultimately dismissed on jurisdictional grounds.

Respectfully submitted,



C. Kent Hatfield
Douglas F. Brent
STOLL KEENON & PARK, LLP
2650 AEGON Center
400 West Market Street
Louisville, Kentucky 40202
(502) 568-9100

COUNSEL FOR DIALOG
TELECOMMUNICATIONS

CERTIFICATE OF SERVICE

A copy of the foregoing was served this 25th day of July, 2005 first class, United States mail, postage prepaid, upon Dennis G. Howard, II, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, KY 40601-8204.



Douglas F. Brent

Section 7 - BUSINESS AND RESIDENTIAL NETWORK SWITCHED SERVICES (cont'd)

7.2 SERVICE DESCRIPTIONS AND RATES (cont'd)

7.2.2 Unlimited Plan

a. General

The Unlimited Plan combines monthly local service and monthly long distance service which is charged, on a bundled basis, to the customer on flat-rated, per-line basis. The Unlimited Plan is subject to a one term commitment and to such additional terms and conditions as may be specified in the contract between the Company and the customer. Customers must receive both local, local toll, and long distance from the Company on all lines provisioned at the location where the Company is providing service to the Customer. No minimum monthly fees or minimums apply and no surcharges or other fees excepting taxes and applicable regulatory fees or surcharges charged in consequence of local, state or federal regulations. An additional, unmetered Backup Line is also available at the customer's election. There is a limit of one Backup Line per account.

b. Rates

The Unlimited Plan is available for \$78.00 per line per month, subject to the one-year term commitment referenced above. Additional charges and fees may apply as specified elsewhere in this Tariff.

7.2.3 Add-on or Supplementary Services

a. General

The Company offers special pricing for CLASS services, customer calling features, toll-free numbers and other services. All such services may be purchased as add-ons or supplements to either the Simple Solutions Plan or the Unlimited Plan and are subject to such additional terms and conditions as may be specified in the contract between the Company and the customer.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

APR 04 2002

PURSUANT TO 807 KAR 5011,
SECTION 9 (1)

BY Stephan B. Bell
SECRETARY OF THE COMMISSION

Issued: March 4, 2002

Effective: April 4, 2002

Issued by Dialog Small Business Alliance, Inc.
Patrick L. Eudy, Chairman
540 Griffith Road
Charlotte, NC 28217

July 25, 2005

<<Customer Name>>
<<Customer Address>>
<<Customer Address>>
<<Customer Address>>

RE: Service on account <<Customer Account>>

Dear <<Customer Name>>:

Welcome to Dialog Telecommunications!

As a Dialog customer you not only get the best service and prices, but you can participate in our customer referral program and earn free service! You will receive one free month of service (up to \$50) for each person or business that you refer to us that becomes a customer. Have them call us...it's just that simple!

Your service is scheduled for conversion to Dialog by close of business <<**Conversion Date**>>. You will be billed on or around this day each month; the specific date will be adjusted to accommodate weekends and holidays.

If you will be using a long distance company other than Dialog, AND if they are billing you on your current local phone bill, please tell them that you will need to be billed directly. Your long distance company's toll-free number will be on your current local phone bill.

Please contact us if you have any questions about your new service, want to add or remove features, or ever experience a problem with the quality of your service. You may contact us through our website at www.calldialog.com, e-mail us at customer.service@calldialog.com, or call us toll-free at **1-888-439-6100**.

Thanks again for your business and welcome to Dialog!

See Reverse for Terms & Conditions

Dialog Telecommunications – Terms and Conditions

General. Dialog Telecommunications, Inc. (“Dialog” or “us”) agrees to provide the services on the reverse (the “Services”) to you subject to these terms and conditions. Dialog’s provision of Services under this Agreement may also be subject to tariffs filed with the state public utility commission. This Agreement, together with any tariffs, constitutes the entire agreement between you and Dialog with respect to the Services and supersede any and all prior understandings or communications, oral or written.

Satisfaction and Rate Guarantees. If you are not satisfied with the quality of Services after giving us reasonable notice, you may terminate this Agreement without penalty by giving us written notice. During the term of this Agreement, (a) Dialog will not increase rates for the Services and (b) Dialog will make available to you any lower rates available on the same terms offered to new customers in your area.

Long Distance Allotments. Service offerings may include an allotment of long distance minutes measured in 6-second billing increments. If you exceed your allotment by 20% or more you agree to pay \$8.00 for each 100-minute overage block or portion thereof.

Payment and Taxes. All charges for Services will be billed monthly in advance, and other charges will be billed as incurred. All charges are due and payable when billed. You agree to pay by credit card or automatic bank draft. Each charge unpaid for any reason when billed shall be subject to an administrative charge of up to \$25.00. You agree to pay any new or increased taxes, levies or other regulatory charges that may arise in connection with the Services after provisioning of your service.

Restrictions and Limitations. You agree that you will not use the Services (a) for resale; (b) for telemarketing, outbound call center, or similar enterprises; (c) for connection to information or entertainment services; (d) for data transmission; (e) for aggregation of calls originating on facilities provided by any other carrier; or (f) for any unlawful or unintended purpose. The Unlimited Connection Plan is exclusively available to customers whose telephone lines have been solely provisioned by Dialog as Unlimited Connection Plan lines, except one line may be on the Simple Solution plan. The Services are subject to certain limitations, including the following: (a) no collect calls; (b) no international calls; (c) no accepting charges for third party calls and (d) limited access to operator assisted calls.

Term and Default. The term of this Agreement is one year, with continuation on a month-to-month basis thereafter; provided, Dialog may amend these terms and conditions or terminate all, or any part of, the Services upon thirty (30) days prior notice to you. An early termination charge equal to 35% of the monthly service charge multiplied by the number of months remaining in the term shall apply. If Dialog reasonably believes you have breached any restriction on use or any other provision of this Agreement, Dialog may at its sole and absolute discretion terminate all Services and this Agreement without any notice to you. Dialog shall have no liability of any kind to you or any other person in connection with any such termination. You shall remain liable for charges accrued through the date of termination, plus any early termination penalty.

Limitation of Liability. DIALOG SHALL NOT BE LIABLE TO YOU OR ANY OTHER PERSON WHATSOEVER FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES. THIS PROVISION APPLIES EVEN IF DIALOG IS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. DIALOG SHALL NOT BE LIABLE FOR ANY FAILURE OF PERFORMANCE OF ANY OF ITS OBLIGATIONS HEREUNDER DUE TO ANY CAUSE BEYOND DIALOG’S CONTROL, INCLUDING ACTS OF GOD, WAR, TERRORISM, STRIKE OR ACTS (OR OMISSIONS) OF ANY OTHER ENTITY FURNISHING A PORTION OF ANY SERVICE OFFERED HEREUNDER. DIALOG’S SOLE LIABILITY TO YOU, AND YOUR SOLE REMEDY FOR ANY BREACH OF THIS AGREEMENT OR ANY INTERRUPTION OR FAILURE OF SERVICE, SHALL BE A CREDIT OF SUCH CHARGES FOR SERVICE AS WOULD HAVE ACCRUED BUT FOR SUCH INTERRUPTION OR FAILURE.

No Representations or Warranties. DIALOG PROVIDES THE SERVICES “AS IS,” WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED (INCLUDING WITH RESPECT TO THE DESCRIPTION OR COMPLETENESS OF ANY SERVICES PROVIDED HEREUNDER). DIALOG DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY ARISING OUT OF USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

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